

# MINUTES

## State-Tribal Relations



Senator Troy Heinert, Chair  
Representative Shawn Bordeaux, Vice Chair

**Second Meeting, 2016 Interim  
Thursday, October 13, 2016**

**Main Auditorium – 100 Lincoln Street  
Eagle Butte, SD 57625**

The second meeting of the State-Tribal Relations Committee was called to order by Senator Troy Heinert, Chair, at 10:40 a.m. (MDT) on October 13, 2016, in the Main Auditorium of the Cheyenne River College Center in Eagle Butte, SD.

A quorum was determined by the following members answering the roll call: Senator Troy Heinert, Chair; Representative Shawn Bordeaux, Vice Chair; Senators Jim Bradford, Betty Olson, and Craig Tieszen; and Representative Kevin Killer. Senator Ernie Otten and Representatives Elizabeth May, Lee Qualm, and James Schaefer were excused.

Staff Members present were Roxanne Hammond, Senior Legislative Attorney; Jessica LaMie, Research Analyst, and Lucas Martin, Fiscal Analyst.

*NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://sdlegislature.gov>.*

### **Approval of the Minutes and Opening Remarks**

**SENATOR TIESZEN MOVED, SECONDED BY REPRESENTATIVE KILLER, TO APPROVE THE MINUTES OF THE MAY 16, 2016 MEETING.** Motion prevailed unanimously on a voice vote.

**Senator Troy Heinert** thanked the Cheyenne River College Center for hosting the committee and expressed appreciation to the members of the public who attended the meeting. He wanted the public to discuss the issues affecting their communities and how the Legislature can help. The topics on the agenda were education, transportation and roads, the Dakota Access Pipeline, law enforcement, and Truth and Reconciliation. However, the public may express any issues affecting them.

### **Public Comment**

**Mr. Harold Frazier, Tribal Chairman, Cheyenne River Sioux Tribe, Eagle Butte,** thanked the committee for coming because it felt like someone was listening to them. He stated one of the biggest issues facing the tribes was the Dakota Access Pipeline. He said there is no mention of South Dakota in the environmental impact statement. If the pipeline was ever to break it would have a disastrous impact on their people. It is his hope that South Dakota will take measures to protect the Missouri River. He suggested for the safety of everyone to hold construction until all litigation is complete and also suggested putting a casing around the pipeline to minimize damage if it were ever to break. Mr. Frazier invited the committee to visit the campsites in North Dakota to see what goes on there. There is a misconception that it is violent which is not true, there is a lot of laughter, prayer, and song that takes place. Mr. Frazier

expressed great concern that a person, a non-Indian, can physically harm a race of people and get away with it and questioned where Indian people should go for help.

**Representative Shawn Bordeaux** commented on the tax agreements with the state and in those agreements cities on the reservation charge an additional tax and asked if this was an issue on the Cheyenne River Reservation.

Mr. Frazier stated that the city started taxing an additional two percent but if a tribal member shows their tribal identification then they do not pay the additional tax. However, it is perceived as disrespectful, especially to elders. It is his hope to assist in legislation on this issue in the upcoming session.

**Mr. Steve Emery, Secretary, Department of Tribal Relations**, informed the committee and members of the public that the department will hold a tribal legislative training session on the afternoon of October 20, 2016 in Pierre.

**Senator Jim Bradford** asked if it was safe for school-aged children to visit the camps at the Dakota Access Pipeline protests or if students planning on visiting should wait. Mr. Frazier answered he has a photo of a cop pointing a gun at a little girl and he is afraid of escalation, especially in the next few days, and would not advise school-aged children going to the camps at the moment.

Representative Bordeaux read a portion of a letter from the federal government to the tribes asking for nation-to-nation consultations to hear tribal input on the following questions:

- 1) *How can Federal agencies better ensure meaningful tribal input into infrastructure-related reviews and decisions, to protect tribal lands, resources, and treaty rights within the existing statutory framework; and*
- 2) *Should Federal agencies propose new legislation altering the statutory frame work to promote these goals?*

He said the Federal Government is aware of the issues but are not sure how to deal with them. The tribes have to be ready for the consultations. He attended a consultation last week and he did not feel the tribes were ready. It is important for all the tribes to stand together and be prepared and he implored everyone to be mindful and ready for these nation-to-nation consultations.

**Ms. Regina Brave, Oglala Sioux Tribe, Oglala**, expressed that the tribe needs to take a treaty stand and declare their sovereignty under the 1868 nation-to-nation peace treaty.

**Emannel Red Bear, Cheyenne River Sioux Tribe, Eagle Butte**, in response to a situation with his granddaughter expressed concerns over Department of Social Services handling of Indian children and taking them off the reservation, against the Indian Child Welfare Act. He also expressed concern over education on the reservation. Lakota Language teachers are being paid less than other teachers on the reservations and are the lowest paid teachers in the nation. The school has been granted eminent scholar status but a college needs to recognize that status. Finally, he stated that the Dakota Access Pipeline

affects everyone along the Missouri River and that the Lakota people need the committee's help to protect the water.

**Ivan Looking Horse, Cheyenne River Sioux Tribe, Eagle Butte**, stated he has been to the Dakota Access Pipeline protest camps and it is their job to bring awareness to water and this is a last effort stand to make sure their children have the same water they have, air they breathe, and land they stand on. He believes if the pipe breaks it would damage their food supply because their cattle drink water from the Missouri River and their crops are watered with water from the Missouri River. He stated the tribes and the government need to work together to make amends and takes steps to protect the water and the people.

**Edna Thompson, Cheyenne River Sioux Tribe, Dupree**, stated she is an honorably discharged veteran and is disabled. She expressed concern about the Department of Veterans Affairs (VA), Indian Health Services (IHS), and the Choice Program because she has to pay for her travel to see various doctors, she has to pay for her medication, the VA takes different amounts from her income each month, IHS cannot serve her because she is a veteran, and the Choice Program does not return her phone calls. She has a bill that she is unsure where to send payment because of lack of communication from the various sources and her credit has been ruined by such bills.

Senator Heinert asked if she had contacted the State Veterans Affairs office for help and that the committee would get her the contact information for the office. Ms. Thompson answered she had not contacted that office and would appreciate the information.

Senator Bradford recommended she contact United States Senator Mike Rounds because his office is a part of special programs to help get these types of incidents off credit reports for veterans.

**Ron Eagle Charging, Cheyenne River Sioux Tribe, Eagle Butte**, recommended not sending children to the Dakota Access Pipeline protest camps and instead sending teachers and representative who can report to the children what they saw and experienced. He said he feared a confrontation. He suggested the Lakota people talk to the spirits and try to finish what they started to the best of their abilities.

**Dakota Longbreak, Department of Transportation, Cheyenne River Sioux Tribe, Dupree**, stated that Ziebach County is hurting for money for roads. One county road has three or four dangerous curves, and it would be eight years of planning for the county to grate them. He has requested Highway 63 be widened at the shoulders. It is the only state highway on the reservation that does not have a shoulder. There was recently a car full of girls that went off that portion of road and there was one fatality. The highway is not currently in the state's five-year plan and the state often does not want to do just a widening project, and would prefer to combine the project with another project. Funding is an issue because all the miles of road for funding are capped at the 2012 inventory and until a new federal funding formula is established the tribes need to keep track of their road inventory in order to be prepared for a new funding formula.

**Senator Craig Tieszen** asked if there was an indication of plans beyond the state's five-year plan to widen the highway. Mr. Longbreak replied that he did not know but commented that it is a lower traffic road and therefore a lower priority. He also stated that his department was going to attempt to get a Tiger Grant to improve the road, but chances were slim because there are thousands of applications.

Representative Bordeaux asked if any of the money from wheel tax made it to Ziebach County. Mr. Longbreak admitted that he was not sure how money gets from the counties to the tribe.

Representative Bordeaux stated that the state and county need to work together to access the money. Mr. Longbreak replied that he believed that the county commissioners are not knowledgeable enough about funding to go after all available sources of funding. There was an attempt to facilitate a meeting between the county commissioners and the Department of Transportation (DOT) to learn about the different funding options available but it fell through. However, he believed that a meeting could still come to fruition with a little pressing.

Senator Tieszen implored them to keep trying to set up a meeting with DOT and the county commissioners because a meeting could be very valuable.

**Senator Betty Olsen** suggested contacting Ryan Maher because he was very interested in the roads in that area.

Senator Heinert commented on the road and bridge funding that came out of the Legislature last year and that it is important to be mindful of taxes that may hurt funding for roads instead of help.

**Pamela Bond, Snohomish Tribe, Washington State**, stated that the Dakota Access Pipeline is a poison that is going to ruin the water, the land, and the people. She hopes that the water and the people are important and the precedent that is set is a good one. To an outside eye the action of the North Dakota police is appalling and racism at its finest, and she hopes that money and power do not win over human beings.

Representative Bordeaux stated he appreciated her coming all the way from Washington state to speak and recalled a trip where representatives from approximately twenty tribes from all over the country canoed to one meeting place and that showed the unity of the tribes. He stated the committee is trying to do its best and align itself with the good side of things.

**Doctor Cherie Farlee, Tribal Education Director, Cheyenne River Sioux Tribe, Eagle Butte**, thanked the committee for coming and giving people the opportunity to be heard. One issue has always been meaningful consultation and trying to work out what that means to the state. She said their schools are struggling with accreditation and being able to offer competitive teacher pay. A final accreditation manual has been put together and will be distributed. There is hope for a Lakota Language consortium to try and restore the language in a form the youth can use, otherwise it will be lost. It is important for youth to learn the language as it provides a sense of self, and Cheyenne River is going to step forward and take steps to restore the language.

Representative Bordeaux commented on the Achievement Academy opportunities that allow the tribes to create programs and could be used for language in public schools. He encouraged all tribal communities to figure out what they can do to get language back into the community. He wondered if there were efforts being made to take advantage of the Achievement Academies. Dr. Farlee responded that she believed the public schools had applied but would look into the opportunity further.

Senator Heinert commended Dr. Farlee on her work with the accreditation manual. He explained that all schools have to be accredited. Additionally, tribal schools want good teachers just like any other school and efforts should be made to help tribal schools be competitive in teacher pay.

**Ms. Toni Handboy, Behavioral Health, Cheyenne River Sioux Tribe, Eagle Butte**, expressed concern over jurisdictional limitations and how that have a negative impact on mental health, disabled persons, aging persons, children, and pregnant mothers abusing substances. Tribal code does not cover non-members and tribal officers will not respond to neglect cases unless there is physical abuse. The county cannot step in because of lack of jurisdiction in Indian Country. In child protective service cases, non-members will take tribal children off the reservation and there is nothing the tribe can do to bring the child back to the reservation. The rate of meth use on the reservation is high and the number of mothers abusing meth while pregnant is on the rise. The state cannot step in to offer assistance until the child is born off the reservation and then the state takes the child from the mother. The child will likely never return to the reservation. Finally, she expressed concern over a lack of state funding for homeless adolescents who do not finish their education. Grants and funding goes to the state units for high risk adolescents but the money is not getting to the tribe. There is a hope to coordinate with all the tribes about social welfare issues. There needs to be more discussion between the tribe, the Bureau of Indian Affairs, IHS, and the state.

**Mr. Manny Iron Hawk, MaspegnakeThiospaye, Frazier Red Scaffold**, applauded the committee for coming to hear concerns and that a dialog needs to be reopened. The tribes need agreements with the state to make long range education plans and the tribes need technical know-how to create a five to ten-year curriculum. Language and culture need to be a part of any long term curriculum and play a vital role in shaping youth identity. Children are vital to any tribe and children need to stay on the reservation with the tribe. When removed from the reservation, a child's identity is lost.

**Ms. Renee Iron Hawk, MaspegnakeThiospaye, Red Scaffold**, commented that it is important to have respectful dialog between the state and the tribe regarding the Dakota Access Pipeline.

### **Committee Discussion**

Senator Bradford updated the committee on the work of the Substance Abuse Prevention Interim Committee and a bill that would allow for an appropriation for a culturally based televised education program, directed toward Native American students, to educate students on methamphetamines and opioid addiction. A company from North Dakota has had success with their program and he believes it is a good step forward in reducing the meth epidemic.

Senator Tieszen added that the appropriation was a good step because it did not overlap with the Attorney General's or Governor's meth prevention programs and was an effort to make sure that Native American students did not fall through the cracks.

**Representative Kevin Killer** stated his appreciation to Cheyenne River for hosting and their hospitality. The Dakota Access Pipeline is a contentious issues and it is important to have a dialog. He said parties do not leave time to come together and talk.

Representative Bordeaux expressed the importance of having a dialog because there are certain protocols and rules that get lost in translation. For example, a sacred Native American pipe may be misconstrued as a pipe bomb to someone who does not understand the culture and the significance of a pipe. He encourages the state to establish a Truth and Reconciliation Commission similar to Canada. If a commission were to be established, it would be a forum for continued dialog. It is important to keep language and culture alive in the communities. He expressed appreciation for everyone at the meeting.

Senator Heinert expressed appreciation for the support of tribal staff in setting up the meeting. There are a lot of issues that can be improved and worked on if done together. There is a need to bridge certain gaps that affect the tribes. There will be continued work on education and assisting in the accreditation process. Taxation will be a topic of conversation. The Dakota Access Pipeline is a South Dakota issue no matter what side a person falls on. There is a possible option of alternative certification of Lakota Language teachers to potentially increase the pay they receive. He was very impressed by the economic development of the area as well as the Youth Center and the programs they offered. He conveyed his appreciation to all those who attended and expressed their concerns.

The committee discussed two future meeting dates, the first in mid-November at the Yankton Sioux Reservation and the second in December in Rapid City, during the Lakota Nation Invitational.

### **Adjournment**

**SENATOR OLSON MOVED, SECONDED BY SENATOR BRADFORD, TO ADJOURN.** The motion prevailed unanimously on a voice vote. The committee adjourned at 2:42 pm (MDT)